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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/626,071

07/23/2003

Lloyd Paul Mills

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EXAMINER

PARK, GEORGE M

ART UNIT

PAPER NUMBER

3623

NOTIFICATION DATE

DELIVERY MODE

02/14/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/626,071	Applicant(s) MILLS, LLOYD PAUL	
	Examiner GEORGE PARK	Art Unit 3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7-23-2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>7/23/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-6, 12-18, 24, 25 and 30-32 are rejected under 35 U.S.C. 102(e) as being unpatentable by Subramanian et al. (U.S. Pub. No. 2004/0117236 A1).

Regarding to claims 1, 12, 24 and 30, Subramanian et al. discloses a method for forecasting a potential cost for an indirect procurement commodity (as per claim 1) (paragraph [0007], lines 1-5), a system for forecasting a potential cost for an indirect procurement commodity (as per claim 12) (paragraph [0016], lines 1-3), a computer program product for forecasting a potential cost for an indirect procurement commodity, the computer program product comprising a computer usable medium having computer readable program means (as per claim 24) (paragraph [0016], line 12, paragraph [0017], lines 1-4), and a method of doing business (as per claim 30) (paragraph [0007], lines 1-5) comprising: receiving a volume (i.e. load) of the indirect procurement commodity to be block purchased for a future period (paragraph [0017], line 4, paragraph [0018], lines 1-2); calculating a cost of the volume of the indirect procurement commodity based on historical consumption data for a past period (paragraph [0022], lines 5-8, paragraph [0018], lines 6-8); and forecasting a potential cost of the indirect procurement commodity to be purchased for a future period based on the calculated cost

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(paragraph [0018], lines 6-10) and at least one variable factor (i.e. on-site generation options) associated with the indirect procurement commodity (paragraph [0009], lines 1-5).

Regarding to claims 2 and 31, Subramanian et al. discloses wherein the indirect procurement commodity comprises energy (paragraph [0002], lines 1-3).

Regarding to claims 3 and 13, Subramanian et al. discloses multiplying the volume (i.e. load) of the indirect procurement commodity by a time factor wherein the time factor is associated with the past period (paragraph [0031], paragraph [0030], lines 8-11).

Regarding to claims 4 and 14, Subramanian et al. discloses wherein the time factor comprises a number of off-peak hours in the past period (paragraph [0025], paragraph [0030], lines 8-11).

Regarding to claims 5 and 15, Subramanian et al. discloses wherein the time factor comprises a number of peak hours in the past period (paragraph [0025], paragraph [0030], lines 8-11).

Regarding to claims 6, 16, 25 and 32, Subramanian et al. discloses wherein forecasting a potential cost of the indirect procurement commodity further comprises: calculating the at least one variable (i.e. on-site generation options) (paragraph [0079], lines 1-5, paragraph [0098]).

Regarding to claim 17, Subramanian et al. discloses a system for forecasting a potential cost for an indirect procurement commodity (paragraph [0016], lines 1-3), comprising: a graphical user interface (i.e. computer screen) (paragraph [0016], line 9); and a cost forecasting tool coupled to the graphical user interface (paragraph [0017], lines 1-4) capable of: receiving a volume (i.e. load) of the indirect procurement commodity to be block purchased for a future period (paragraph [0017], line 4, paragraph [0018], lines 1-2); calculating a cost of the volume of

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the indirect procurement commodity based on historical consumption data for a past period (paragraph [0022], lines 5-8, paragraph [0018], lines 6-8); and forecasting a potential cost of the indirect procurement commodity to be purchased for a future period based on the calculated cost (paragraph [0018], lines 6-10) and at least one variable factor (i.e. on-site generation options) associated with the indirect procurement commodity (paragraph [0009], lines 1-5).

Regarding to claims 18, Subramanian et al. discloses wherein forecasting a potential cost of the indirect procurement commodity further comprises: calculating the at least one variable (i.e. on-site generation options) (paragraph [0079], lines 1-5, paragraph [0098]).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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5. Claims 7-9, 19-21, 26-28 and 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramanian et al. (U.S. Pub. No. 2004/0117236 A1) in view of Brown et al. (U.S. Pub. No. 2003/0055677 A1).

Regarding to claims 7, 19, 26, and 33, Subramanian et al. discloses the invention substantially as claimed. However, Subramanian et al. does not disclose calculating the at least one variable further comprises: calculating a market imbalance factor for the future period based on data associated with the past period. Brown et al. discloses calculating a market imbalance factor (i.e. predicted utility margins) (paragraph [0048]) for the future period based on data associated with the past period (paragraph [0011], lines 7-12, paragraph [0044], lines 1-6). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method, system and computer program product of Subramanian et al. with the feature of calculating a market imbalance factor (i.e. predicted utility margins) for the future period based on data associated with the past period as taught by Brown et al., as both Subramanian et al. and Brown et al. are directed toward the method, system and computer program product for forecasting a potential cost for an indirect procurement commodity. The motivation for doing so would have been to take into account the cost of overages and deficits of energy used.

Regarding to claims 8, 20, 27 and 34, Subramanian et al. discloses the invention substantially as claimed. However, Subramanian et al. does not disclose wherein data associated with the past period comprises consumption data and price index data. Brown et al. discloses wherein data associated with the past period comprises consumption data (i.e. usage data) and price index data (pricing data). Therefore, it would have been obvious to one having ordinary

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skill in the art at the time the invention was made to combine the method, system and computer program product of Subramanian et al. with the feature of wherein data associated with the past period comprises consumption data and price index data as taught by Brown et al., as both Subramanian et al. and Brown et al. are directed to the method, system and computer program product for forecasting a potential cost for an indirect procurement commodity. The motivation for doing so would have been to use historical data to calculate the market imbalance factor.

Regarding to claims 9, 21, 28, and 35, Subramanian et al. discloses the invention substantially as claimed. However, Subramanian et al. does not disclose wherein forecasting the potential cost of the indirect procurement commodity further comprises: adding the market imbalance factor to the cost of the volume of the indirect procurement commodity thereby generating a forecasted cost of the volume of the indirect procurement commodity. Brown et al. discloses calculating a market imbalance factor (i.e. predicted utility margins) (paragraph [0048]) for the future period based on data associated with the past period (paragraph [0011], lines 7-12, paragraph [0044], lines 1-6). It is common knowledge in the prior art to add the market imbalance factor into the cost of the volume of the indirect procurement commodity once it has been calculated. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method, system and computer program product of Subramanian et al. with the feature of wherein forecasting the potential cost of the indirect procurement commodity further comprises: adding the market imbalance factor to the cost of the volume of the indirect procurement commodity thereby generating a forecasted cost of the volume of the indirect procurement commodity as taught by Brown et al., as both Subramanian et al. and Brown et al. are directed to the method, system and computer program product for

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forecasting a potential cost for an indirect procurement commodity. The motivation for doing so would have been to take into account the cost of overages and deficits of energy used in generating a forecasted cost of the volume of the indirect procurement commodity.

6. Claims 10, 11, 22, 23 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Subramanian et al. (U.S. Pub. No. 2004/0117236 A1) in view of Brown et al. (U.S. Pub. No. 2003/0055677 A1) and further in view of Zaloom (U.S. Pat. No. 6,366,889 B1).

Regarding to claims 10, 22 and 29, Subramanian et al. and Brown et al. discloses the invention substantially as claimed. However, Subramanian et al. and Brown et al. do not disclose wherein forecasting the potential cost of the indirect procurement commodity further comprises: factoring a market fluctuation component into the forecasted cost of the volume of the indirect procurement commodity. Zaloom discloses wherein forecasting the potential cost of the indirect procurement commodity further comprises: factoring a market fluctuation component (i.e. fuel cost adjustment/ environmental surcharge) into the forecasted cost of the volume of the indirect procurement commodity (column 17, lines 52-57). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method, system and computer program product of Subramanian et al. and Brown et al. with the feature of wherein forecasting the potential cost of the indirect procurement commodity further comprises: factoring a market fluctuation component into the forecasted cost of the volume of the indirect procurement commodity as taught by Zaloom, as Subramanian et al., Brown et al., and Zaloom are directed to the method, system and computer program product for forecasting a potential cost for an indirect procurement commodity. The motivation for

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doing so would have been to consider market fluctuation into the forecasted cost of the volume of the indirect procurement commodity.

Regarding to claims 11 and 23, Subramanian et al. and Brown et al. discloses the invention substantially as claimed. However, Subramanian et al. and Brown et al. do not disclose wherein the market fluctuation component comprises a best guess estimate of market fluctuation during the future period. Zaloom discloses wherein the market fluctuation component (i.e. fuel cost adjustment/ environmental surcharge) (column 17, lines 52-57) comprises a best guess (i.e. realistic) estimate during the future period (column 17, lines 64-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the method and system of Subramanian et al. and Brown et al. with the feature of wherein the market fluctuation component comprises a best guess estimate of market fluctuation during the future period as taught by Zaloom, as Subramanian et al., Brown et al. and Zaloom are directed to the method and system for forecasting a potential cost for an indirect procurement commodity. The motivation for doing so would have been to anticipate market fluctuation when forecasting a potential cost of the volume of the indirect procurement commodity.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Peljto et al. (U.S. Pub. No. 2003/0229576 A1) discloses a method and apparatus for resolving energy imbalance. Powell et al. (U.S. Pub. No. 2003/0126025 A1) discloses a system, method and storage medium for facilitating procurement of direct and indirect items. Sick et al.

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(U.S. Pub. No. 2003/0216971 A1) discloses a system for buying and selling commodities or resources. Takriti et al. (U.S. Pat. No. 5,974,403) discloses a computer implemented tool for forecasting the spot price of electric power. Woo et al. ("Managing Electricity Procurement Cost and Risk by a Local Distribution Company") discloses a framework for determining the forward-contract purchases that minimized the expected procurement cost.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GEORGE PARK whose telephone number is (571)270-3547. The examiner can normally be reached on Monday - Friday (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Jonathan G. Sterrett/
Primary Examiner, Art Unit 3623